

Service Date: February 23, 1994

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF the Application)	UTILITY DIVISION
of GRANT CREEK WATER WORKS for)	
Authority to Increase Rates and)	DOCKET NO. 94.1.3
Charges for Water Service.)	ORDER NO. 5773

PROCEDURAL ORDER

Introduction

On January 13, 1994 Grant Creek Water Works (Grant Creek) filed an application with the Montana Public Service Commission (Commission) for a rate increase for its customers in Grantlands 12, 13, and Lime Springs Additions and other areas in Missoula County. The Commission issued a Notice of Application and Intervention Deadline to Grant Creek's customers setting March 4, 1994 as the final date for intervention.

The Montana Public Service Commission (Commission) has delegated to staff the duty to issue procedural schedules and orders. Under the authority of ARM 38.2.2702, the Commission enters this Order setting forth the procedure and schedule to be followed in Docket No. 94.1.3. This Order is effective immediately and remains effective until modified by the Commission. The dates set forth may be rescheduled only by staff action upon conference with the parties. The Commission will reconsider the hearing date only upon good cause.

Schedule

1. All dates listed in the following schedule are receipt dates (filing and service) unless otherwise specified.
 - (a) March 7, 1994: Final day for intervention.
 - (b) March 14, 1994: Final day for written discovery (includes data requests) from Commission staff and Intervenor(s) to Grant Creek.
 - (c) March 25, 1994: Final day for Grant Creek to respond to intervenor discovery.
 - (d) April 6, 1994: Final day for written discovery from Grant Creek to Intervenor(s).
 - (e) April 18, 1994: Final day for Intervenor(s) to respond to written discovery from Grant Creek.
 - (f) April 28, 1994: Final day for parties to file pre-hearing memoranda which shall each contain a list of issues uncontested and contested; positions on the issues; witnesses to testify; and exhibits and discovery for introduction at hearing, including data responses.
 - (g) May 3, 1994: Date set for hearing in Docket No. 94.1.3.
2. In addition, the Commission may schedule prehearing conferences and may grant interim relief. Parties (Grant Creek and intervenor(s)) may request dates for prefiling testimony if it appears necessary.

Procedure

3. The procedure governing this Docket is set forth in applicable provisions of (a) Title 69, Chapter 3, MCA (Montana Administrative Procedures Act or MAPA); and (c) ARM Title 38, Chapter 2 (the Commission's procedural rules).

4. Parties shall file copies of all pleadings, motions, discovery requests and responses, prefiled testimony and briefs with the Commission and serve the parties. Service upon the parties shall be upon each party's attorney of record and others reasonably designated. Parties shall file with the Commission an original and ten copies of motions, testimony, briefs, and documents directed to the Commission.

Intervention

5. Parties seeking to intervene must file a petition to Intervene with the Commission by March 7, 1994. If intervention is timely requested pursuant to ¶1(a), the Commission will grant it subject to a later ruling on standing. In a request for late intervention, the petitioner must (a) identify intervenor's general position; (b) demonstrate a legally protectable interest directly affected by this Docket; (c) demonstrate that the intervention would not delay or prejudice the proceeding; and (d) show good cause why the request for intervention was not timely filed. Late intervention will be effective only upon action of the Commission.

6. "Discovery" includes all forms of discovery authorized by the Montana Rules of Civil Procedure, as well as data requests. The Commission urges parties to conduct discovery through the use of data requests. The Commission directs parties to prepare data requests as follows:

(a) Data requests must each be captioned with a subject description (five words or less) and should include other identifying information, such as the responding witness, exhibit number and page number. Each party should keep subject descriptions consistent.

(b) Multi-part requests may be used, each part denoted by a lower case letter limited to five parts (a, b, c, d and e), without any sub-parts. A single part request should be denoted by the request number only.

(c) Examples of acceptable data requests follow:

PSC-500 RE: Purchased Gas Contracts
Witness - Burke, Page JBB-4, Lines 13-16

Please provide the origination and expiration date for each contract.

PSC-501 RE: Bypass
Witness - Johnson, Page DAJ-14, Lines 11-14.

- a. What risks of bypass would be avoided by the shareholders as a result of the Company's proposed treatment?
- b. What risks of bypass would be avoided by the ratepayers as a result of the Company's proposed treatment?

7. A party objecting to data requests or responses must file any objections and serve notice on the Commission and

parties within five days of receipt. Failure to timely object will be deemed acceptance of the request or response. Parties are encouraged to resolve concerns before filing objections. The Commission may rule promptly on the objections or schedule argument.

8. The Commission will allow submission of written discovery after the deadline only upon a showing of good cause as to why the request was not timely filed. Unless excused by the Commission, failure to answer data or discovery requests may result in action: (a) refusing to allow the nonresponsive party to support or oppose related claims; (b) prohibiting introduction of related matters in evidence; (c) striking pleadings or testimony; (d) staying further proceedings until the request is satisfied; or (e) dismissing the case, defense or proceeding.

Testimony and Evidence

9. At hearing, the Commission will adopt into the record all prefiled testimony upon motion of the proponent without the witness reading the testimony into the record. The testimony will be an exhibit to the transcript.

10. All proposed exhibits and prefiled written testimony shall be marked for identification before the hearing begins. Parties shall arrange in advance with the court reporter for the preferred manner of identifying exhibits.

11. When cross-examination is based on a document not previously filed with the Commission, copies of the document must

be made available to the Commissioners, parties and staff, unless good cause is shown why copies are not available.

12. Parties shall have present at the hearing and available for cross-examination each person who submitted responses to written discovery. Written discovery, including data responses, will be introduced at the hearing pursuant to applicable rules of evidence and through an appropriate witness subject to cross-examination, or upon stipulation approved by the Commission. Absence of the witness shall be deemed agreement to introduction of data responses listed in the prehearing memoranda (§1(f)). Parties may waive objection(s) to introduction of written responses absent the author and the right to cross-examine. Upon Commission approval of the stipulated waiver, the responding person need not appear at the hearing and the responses may be introduced into the record.

Prehearing

13. Parties shall raise all motions on procedural matters at the earliest possible time and submit prehearing motions on briefs, unless excused by the Commission. If the Commission grants oral argument, the requesting party shall notice it for hearing at the time set by the Commission.

14. The Commission may set a final Prehearing Conference to discuss settlement of any issues and dispose of procedural matters.

15. Each party shall submit a prehearing memorandum containing a list of issues, witnesses and exhibits and discovery for introduction at the hearing (§1(f)). The prehearing memorandum should address scheduling of witnesses.

Done and Dated this 23rd day of February, 1994 by delegation to Commission staff as the Order of the Montana Public Service Commission.

BY THE MONTANA PUBLIC SERVICE COMMISSION

BOB ANDERSON, Chairman
BOB ROWE, Vice Chairman
DAVE FISHER, Commissioner
NANCY MCCAFFREE, Commissioner
DANNY OBERG, Commissioner